## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

LAND AIR EXPRESS OF NEW ENGLAND, INC.

and

Case 22-CA-080259

## FRANK CUCCARESE

## ORDER1

The Employer's petition to revoke subpoena duces tecum B-674659<sup>2</sup> is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., September 20, 2012.

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

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<sup>&</sup>lt;sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>&</sup>lt;sup>2</sup> The Employer filed a Petition to Revoke subpoena duces tecum B-674654. The Acting General Counsel's Memorandum in Opposition to the Employer's Petition to Revoke subpoena duces tecum B-674654 notes that the rider to that subpoena inadvertently requested documents for 2012 rather than 2011. The Acting General Counsel subsequently issued Subpoena B-674659 to the Employer requesting the same documents but for the correct time period. The Employer's counsel was informed of the change and provided a copy of subpoena B-674659. The Employer's counsel advised the Acting General Counsel that he would not amend the Petition to Revoke. In these circumstances, we have considered the Employer's Petition as seeking to revoke Subpoena B-674659, and we view Subpoena B-674654 as moot.